

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

DAVID LOUIS GUIDRY,)
)
)
Petitioner,)
)
v.) Civil Action
) No. 08-3471-CV-S-DGK-H
MARTY C. ANDERSON, Warden,)
United States Medical Center)
for Federal Prisoners,)
)
)
Respondent.)

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate Judge for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate Judge has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

Petitioner has filed pro se exceptions to the report and recommendation of the magistrate judge, and has asked that new counsel be appointed.

Whatever the merits of petitioner's allegations, it is clear that a challenge of the fact or duration of his confinement under 18 U.S.C. § 4243 is properly directed to his committing court, which , in this case, is the United Stats District Court for the Eastern District of California. To the extent there is a challenge to conditions of confinement, he must exhaust administrative remedies. Petitioner's exceptions must therefore be overruled.

In view of the status of this case, the Motion to Withdraw filed by the Federal Public Defender will be granted, and a request for new counsel in this district will be denied. It is ORDERED that the Motion to Withdraw filed by the Federal Public Defender be, and is hereby, granted. It is further

ORDERED that the request for new counsel be, and it is hereby, denied. It is further

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis.

It is further

ORDERED, ADJUDGED and DECREED that the petition filed herein be dismissed without prejudice.

/s/ Greg Kays
GREG KAYS
UNITED STATES DISTRICT JUDGE

Date: October 23, 2009